

## REMARKS

Claims 1-4, 6-38 and 40-73 are pending in this application. Claims 5 and 39 are withdrawn from consideration and claims 1-4, 6-38 and 40 are rejected. No new matter has been added by this response. For the reasons stated below, Applicants believe that the claims are in condition for allowance.

### Response To Claim Objections

The Examiner objected to claims 1, 35 and 69 because of the following informalities: The first use of the acronym CPE should be expanded to define CPE as Consumer Premise Equipment. Applicants have amended claims 1, 35 and 69 to clarify that CPE is consumer premise equipment.

Therefore, Applicants submit that claims 1, 35 and 69 are in condition for allowance and the claim objection is moot.

### Response To 35 U.S.C. §112 Rejection

The Examiner rejected claims 1, 35 and 69 under 35 U.S.C. §112, first paragraph as failing to comply with the written description requirement. Applicants have amended claims 1, 35 and 69 making this rejection moot.

Therefore, Applicants submit that claims 1, 35 and 69 are in condition for allowance along with dependent claims 2-4, 6-34, 36-38, 40-68, 70-72, and 74-76 that depend from the allowable independent claims.

The Examiner rejected independent claims 1, 35, 69, and 73 under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. Applicants have amended independent claims 1, 35, 69, and 73 making this rejection moot.

Therefore, Applicants submit that independent claims 1, 35, 69, and 73 are in condition for allowance along with all the claims that depend from the allowable independent claims.

### **Response To 35 U.S.C. §103 Rejection**

The Examiner rejected claims 73 and 77 under 35 U.S.C. §103(a) as being unpatentable over *Eng* (U.S. Patent No. 5,963, 557) in view of *Citta* (U.S. Patent No. 6,034,967) and further in view of *Grzechkowski* (U.S. Pub. No. 2003/0143946). The *Eng* patent teaches and describes a separate control and data channels in the upstream. When the *Eng* patent is combined with the teachings and descriptions of the *Citta* patent and *Grzechkowski* publication (if such a combination is even possible), not all claim elements are taught by the references.

In independent claim 73, an element of "a transmitter for sending messages to the headend control computer upstream messages via an uplink channel where the uplink channel carries both control messages and data messages and a receiver for receiving from the headend control computer downstream messages via a downlink channel."

The claim term "an uplink channel where the uplink channel carries both control messages and data messages" is found only in claim 73. As applied to that term as it is recited in claim 73, *Eng* does not teach or suggest an uplink channel where the uplink channel carries both control messages and data messages." Rather, *Eng* teaches a data channel and a control channel.

As an example, please see FIG. 7 and col. 10, lines 41-62. Further, Applicants respectfully point out that the Examiner rejected only independent claim 73 and dependent claim 77 in view of Eng.

Therefore, Applicants submit that independent claims 73 is in condition for allowance along with claim 77 that depends from allowable independent claim 73.

### CONCLUSION

In view of the foregoing discussion and remarks, Applicants respectfully submit that claims 1-4, 6-38 and 40 as now presented are in a condition for allowance, for which action is earnestly solicited.

The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment, to our Deposit Account No. 50-2542.

Respectfully submitted,

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